

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TATYANA EVGENIEVNA DREVALEVA,

Plaintiff,

No. C 18-03748 WHA

v.

UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS, and ROBERT
WILKIE, Secretary, United States Department
of Veterans Affairs,

**ORDER DENYING
MOTION TO VACATE**

Defendants.

In June 2018, *pro se* plaintiff Tatyana Drevaleva filed suit against defendants United States Department of Veterans Affairs and United States Secretary of Veterans Affairs, Robert Wilkie. On July 11, 2019, a prior order granted defendants' motion to dismiss and final judgment was entered for defendants (Dkt. Nos. 154–155). On July 13, 2019, plaintiff appealed the judgment and filed a timely notice of appeal (Dkt. No. 157). The next day, plaintiff moved to vacate the judgment pursuant to Rule 60 (Dkt. No. 158). Plaintiff has filed four supplemental briefs to date, two of which were filed after plaintiff filed her reply (Dkt. Nos. 163–164, 168–169).

Rule 60(b) sets forth the grounds for relief from a final judgment, including, in relevant part:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not

1 have been discovered in time to move for a new trial under Rule
2 59(b); or (3) fraud (whether previously called intrinsic or
extrinsic), representation, or misconduct by an opposing party.

3 Considering that plaintiff's motion and subsequent briefs only introduce new legal theories and
4 do not introduce any instances of mistake, newly discovered evidence, or misconduct, the motion
5 does not warrant reopening the case at this late stage.

6 Furthermore, it is generally understood that "[t]he filing of a notice of appeal . . . confers
7 jurisdiction on the court of appeals and divests the district court of its control over those aspects
8 of the case involved in the appeal." *E.g., Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56,
9 58 (1982). Plaintiff's civil action was dismissed, judgment entered, and the case closed.

10 This order of events neatly conferred jurisdiction on our court of appeals. The district court
11 lacks jurisdiction to reopen the case.

12 For the reasons stated herein, the motion to vacate the judgment is **DENIED**. Pursuant to
13 Civil Local Rule 7-1(b), this order finds the pending motions suitable for submission without
14 oral argument and hereby **VACATES** the hearing scheduled for August 22. Plaintiff is further
15 advised that filing supplementary material after the operative brief has been filed is a violation of
16 Civil Local Rule 7-3(d) and will not be permitted.

17
18 **IT IS SO ORDERED.**

19
20 Dated: August 5, 2019.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE